

AUG 30 2004

**Yee &
Associates, P.C.**13760 Noel Road
Suite 900
Dallas, Texas 75240Main No. (972) 367-2001
Facsimile (972) 367-2008

Facsimile Cover Sheet

To: Commissioner for Patents for Examiner Clifford H. Knoll Group Art Unit 2112	Facsimile No.: 703/872-9306
From: Rebecca Clayton Legal Assistant to Stephen J. Walder, Jr.	No. of Pages Including Cover Sheet: 4
Message: Enclosed herewith: <ul style="list-style-type: none">• Transmittal Document; and• Supplemental Reply.	
Re: Application No. 09/833,417 Attorney Docket No: AUS920000868US1	
Date: Monday, August 30, 2004	
Please contact us at (972) 367-2001 if you do not receive all pages indicated above or experience any difficulty in receiving this facsimile.	<i>This Facsimile is intended only for the use of the addressee and, if the addressee is a client or their agent, contains privileged and confidential information. If you are not the intended recipient of this facsimile, you have received this facsimile inadvertently and in error. Any review, dissemination, distribution, or copying is strictly prohibited. If you received this facsimile in error, please notify us by telephone and return the facsimile to us immediately.</i>

**PLEASE CONFIRM RECEIPT OF THIS TRANSMISSION
BY FAXING A CONFIRMATION TO 972-367-2008.**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

AUG 30 2004

In re application of: **Browning et al.**

Serial No.: 09/833,417

Filed: April 12, 2001

For: Apparatus, Method and
Computer Program Product for
Converting Simple Locks in a
Multiprocessor

35525

PATENT TRADEMARK OFFICE
CUSTOMER NUMBER§
§
§
§
§
§

Group Art Unit: 2112

Examiner: Knoll, Clifford H.

Attorney Docket No.: AUS920000868US1

Certificate of Transmission Under 37 C.F.R. § 1.8(a)I hereby certify this correspondence is being transmitted via
facsimile to the Commissioner for Patents, P.O. Box 1450,
Alexandria, VA 22313-1450, facsimile number (703) 872-9306,
on August 30, 2004.

By:


Rebecca ClaytonTRANSMITTAL DOCUMENTCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

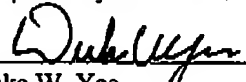
Sir:

ENCLOSED HERewith:

- Supplemental Reply.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,



Duke W. Yee

Registration No. 34,285

YEE & ASSOCIATES, P.C.

P.O. Box 802333

Dallas, Texas 75380

(972) 367-2001

ATTORNEY FOR APPLICANTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

AUG 30 2004

In re application: Browning et al.

Serial No.: 09/833,417

Filed: April 12, 2001

For: Apparatus, Method and
Computer Program Product for
Converting Simple Locks in a
Multiprocessor§
§
§
§
§
§
§
§
§
§
§

Group Art Unit: 2112

Examiner: Knoll, Clifford H.

Attorney Docket No.: AUS920000868US1

Certificate of Transmission Under 37 C.F.R. § 1.8(a)

I hereby certify this correspondence is being transmitted via
facsimile to the Commissioner for Patents, P.O. Box 1450,
Alexandria, VA 22313-1450, facsimile number (703) 872-
9306 on August 30, 2004.

By: Rebecca Clayton

Rebecca Clayton

SUPPLEMENTAL REPLY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

In an August 27, 2004 telephone interview, Examiner Knoll indicated that he was planning to issue a rejection under 35 U.S.C. § 103(a) based on U.S. Patent No. 6,473,819. However, Examiner Knoll noted that this rejection may be overcome by a statement that the reference is not prior art under 35 U.S.C. § 103(c) and requested that Applicants submit such a statement in order to expedite prosecution of the application.

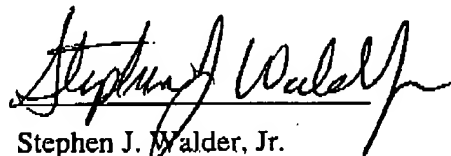
Examiner Knoll indicated that if such a statement were placed in the record, the application would be in condition for allowance.

Accordingly, Applicants respectfully submit that U.S. Patent No. 6,473,819 is not prior art under 35 U.S.C. § 103(a) because U.S. Patent No. 6,473,819 falls within the exception set forth in 35 U.S.C. § 103(c). That is, U.S. Patent No. 6,473,819 qualifies as prior art only under 35 U.S.C. § 102(e) and the subject matter of U.S. Patent No. 6,473,819 and the claimed invention were, at the time the present invention was made, owned by the same person or subject to an obligation of assignment to the same person, i.e. International Business Machines Corporation. Furthermore, the present application was filed on or after November 29, 1999, the effective date of 35 U.S.C. § 103(c).

Therefore, U.S. Patent No. 6,473,819 cannot be used as prior art under 35 U.S.C. § 103(a). Accordingly, Applicants respectfully request allowance of the present application in view of Examiner Knolls statements during the August 27, 2004 telephone interview.

Respectfully submitted,

DATE: August 30, 2004



Stephen J. Walder, Jr.
Reg. No. 41,534
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 367-2001
Attorney for Applicants